

AMENDING TITLE 10, UNITED STATES CODE, WITH  
RESPECT TO CREDITING CERTAIN SERVICE AS A  
MEMBER OF THE WOMEN'S ARMY AUXILIARY CORPS

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JULY 23, 1959.—Ordered to be printed

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Mr. THURMOND, from the Committee on Armed Services, submitted the following

## R E P O R T

[To accompany H.R. 3321]

The Committee on Armed Services, to whom was referred the bill (H.R. 3321) to amend title 10, United States Code, with respect to crediting certain service as a member of the Women's Army Auxiliary Corps, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

## PURPOSE OF THE BILL

This bill would credit service in the Women's Army Auxiliary Corps as active military duty for any person who subsequently served on active duty in any of the Armed Forces.

## EXPLANATION OF THE BILL

*Historical background*

The Women's Army Auxiliary Corps was authorized by the act of May 14, 1942 (56 Stat. 278). Section 12 of this act provides in part as follows:

The corps shall not be a part of the Army, but it shall be the only women's organization authorized to serve with the Army, exclusive of the Army Nurse Corps.

In other words, members of the WAAC served with, but not in, the Army. Their status was in contrast to that of members of the WAVES, women Marines, and women in the Coast Guard (SPARS) who served in their respective services on a military basis rather than as an auxiliary or adjunct thereto.

After approximately a year's experience with the WAAC, the War Department urged enactment of new legislation to drop the auxiliary aspect of the corps and to place it in the Army. However, no provision was made to convey retroactively to May 14, 1942, a military status on service performed in the WAAC. Consequently, persons who initially served in the WAAC and subsequently continued their service in the WAAC or one of the other female components do not receive credit for their WAAC service, whereas persons who initially served in the WAVES, female Marines, or SPARS received credit for all their service.

### *Status of WAAC*

It has been the general policy of the Congress to restrict benefits flowing from the performance of military duty to persons who actually served in the active military or naval service of the United States, a distinction being drawn as between members of the Armed Forces and persons engaged in civilian occupations for the Government, serving with or in aid of the Armed Forces. Examples of groups performing such related services were the merchant marine, the American National Red Cross, the Civil Air Patrol, the Women's Auxiliary Service Pilots, the American Field Service, civilian pilots of the Air Transport Command, the Army Transport Service, and others. Although the reasons vary in each instance, such service has not been credited as active military duty for one or a combination of the reasons that (1) the persons were free to terminate their employment at will, (2) the pay received was in excess of that paid to military personnel, and (3) The persons were not subject to military discipline and trial by court-martial. An analysis of service in the Women's Army Auxiliary Corps indicates that such service was essentially military.

Unlike a variety of civilian groups, members of the Women's Army Auxiliary Corps were paid by the Army and in accordance with the then existing pay scales for the Regular Army. This resulted in pay of only \$21 per month for the auxiliary for the first 4 months of service, the same rates of pay as for the male private.

Unlike those civilian groups who were free to terminate their employment at will, members of the Women's Army Auxiliary Corps agreed to serve for the duration of the war plus 6 months. Conditions governing discharge prior to the expiration of the term of service to which they had agreed closely corresponded to those applicable to members of the Army.

Members of the Women's Army Auxiliary Corps were subject to military discipline imposed through a code of conduct prescribed by the Secretary of War.

In addition to meeting the prerequisites of military pay, military length of service, and military discipline, members of the WAAC performed almost exactly the same type of service and under the same conditions as members of the WAVES, women Marines, and SPARS. The difference in their status is considered one of form instead of substance.

### *Effect of the bill*

Enactment of this bill would enable former members of the WAAC who later performed active service in one of the Armed Forces to credit the service as active military duty for all purposes except promotion. The most significant result is that the persons affected

may receive credit for as much as 16 months of service for longevity pay purposes. This time also would be used in determining the length of service for mandatory retirement purposes and in computing the amount of retirement pay to which the persons involved are entitled when mandatorily retired.

It is possible that some of the persons whose WAAC service would be credited by this bill may become entitled to benefits under laws administered by the Veterans' Administration. Benefits under the bill are limited, however, to those persons who subsequently served on active duty in the Armed Forces. Acceptance of the persons covered in one of the Armed Forces creates a presumption that they were physically qualified for such service and therefore that the number of persons affected by this bill who may have incurred some disability during service in the WAAC would be extremely limited. The bill contains an election provision requiring persons who may become entitled to pension or compensation under laws administered by the Veterans' Administration to make an irrevocable election within 1 year after enactment to receive that pension or compensation instead of any compensation under the Federal Employees' Compensation Act to which the person may be entitled on account of the same service.

#### COST DATA

The committee was informed that for fiscal year 1960, 419 officers and 565 enlisted women would be advanced to the next higher pay grade under the authority of this bill at an estimated cost of \$61,953 for the Army and \$38,698 for the Air Force. In addition, there are 76 retired members of the WAC and the WAF of whom an estimated 50 percent could be moved into the next higher pay bracket for computation of retired pay, with a resulting cost of \$10,160 for the Army and \$3,780 for the Air Force during fiscal year 1960. These estimated costs would remain fairly constant through fiscal year 1964, at which time the active duty cost would decrease slightly and the retired cost would increase slightly because of retirements.

#### DEPARTMENTAL RECOMMENDATION

Printed below and hereby made a part of this report is a letter from the late Deputy Secretary of Defense indicating that this proposal is part of the legislative program of the Department of Defense and that the Bureau of the Budget has no objection to it.

THE SECRETARY OF DEFENSE,  
*Washington, December 22, 1958.*

HON. SAM RAYBURN,  
*Speaker of the House of Representatives.*

DEAR MR. SPEAKER: There is forwarded herewith a draft of legislation to amend title 10, United States Code, with respect to crediting certain service as a member of the Women's Army Auxiliary Corps, and for other purposes.

This proposal is part of the Department of Defense legislative program for 1959 and the Bureau of the Budget has advised that it has no objection to the submission of this proposal for the consideration of the Congress. The Department of the Air Force has been designated as the representative of the Department of Defense for this

legislation. It is recommended that this proposal be enacted by the Congress.

#### PURPOSE OF THE LEGISLATION

The purpose of the bill is to add a new section 1038 to title 10, United States Code, to grant credit for service as a member of the Women's Army Auxiliary Corps to any person who subsequently performed active military service in the Armed Forces, as active military service in World War II. In addition, this legislation would provide that a person entitled to pension or compensation administered by the Veterans' Administration, based upon active military service, may elect within 1 year from the effective date of the legislation to receive that pension or compensation in lieu of any compensation under the Federal Employees' Compensation Act, as amended, to which such person may be entitled on the basis of the same service. The election would be irrevocable and would not create entitlement to the pension or compensation for periods prior to the date the election is made.

The Women's Army Auxiliary Corps served with the Army under regulations prescribed by the Secretary of War; members were, in appropriate circumstances, subject to the Articles of War. They served in similar positions with the same responsibilities as personnel of the Army and their pay scale was similar to that of the Army. Persons in the Women's Army Auxiliary Corps were included in the term "persons in military service" and the term "persons in the military service of the United States," as used in the Soldiers' and Sailors' Civil Relief Act of 1940 (54 Stat. 1178), as amended.

Members of the WAVES, female Marines, and SPARS were actually commissioned or enlisted in a Reserve component and as such were serving in an active military capacity while their counterparts in the Army were considered to be an auxiliary only. The inequality of not crediting service in the Women's Army Auxiliary Corps has been strongly emphasized in connection with the involuntary and voluntary recall to extended active duty of women reservists of the armed services. Such reservists who had Navy or Marine Corps service during the same period of the Women's Army Auxiliary Corps become entitled to more active service credit for basic pay, retirement, and separation than the recalled women reservists with Women's Army Auxiliary Corps service.

For the above reasons, it is believed that the enactment of the proposed bill is in the interests of equitable treatment of women in the services insofar as concerns creditable service for the purposes of basic pay, retirement, and severance pay.

The Department of Defense has consistently opposed the crediting of civilian or quasi-military service as active military service, but since service in the Women's Army Auxiliary Corps was military in nature this proposal should not be construed as a precedent for the granting of similar benefits to other individuals whose service was not military in nature even though performed in an organization serving with the Armed Forces.

#### COST AND BUDGET DATA

Enactment of this proposal will result in no increase in budgetary requirements.

Sincerely yours,

DONALD A. QUARLES, *Deputy.*



## CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, there is printed in parallel columns the text of provisions of existing laws which would be repealed or amended by the various provisions of the bill.

## EXISTING LAW

## THE BILL

## TITLE 10, UNITED STATES CODE

CHAPTER 53—MISCELLANEOUS  
RIGHTS AND BENEFITS

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§ 1037. Counsel before foreign  
judicial tribunals and  
administrative agencies;  
court costs and bail

(a) Under regulations to be prescribed by him, the Secretary concerned may employ counsel, and pay counsel fees, court costs, bail, and other expenses incident to the representation, before the judicial tribunals and administrative agencies of any foreign nation, of persons subject to the Uniform Code of Military Justice. So far as practicable, these regulations shall be uniform for all armed forces.

(b) The person on whose behalf a payment is made under this section is not liable to reimburse the United States for that payment, unless he is responsible for forfeiture of bail provided under subsection (a).

(c) Appropriations available to the military department concerned or the Department of the Treasury, as the case may be, for the pay of persons under its jurisdiction may be used to carry out this section.

That chapter 53 of title 10, United States Code, is amended as follows:

(1) By adding the following new section at the end thereof:

“§ 1038. Service credit: certain  
service in Women’s  
Army Auxiliary Corps.

“In computing years of active service of any female member of the armed forces, there shall be

## EXISTING LAW

## THE BILL

credited for all purposes, except the right to promotion, in addition to any other service that may be credited, all active service performed in the Women's Army Auxiliary Corps after May 13, 1942, and before September 30, 1943, if that member performed active service in the armed forces after September 29, 1943. Service as an officer in the Women's Army Auxiliary Corps shall be credited as active service in the status of a commissioned officer, and service as an enrolled member of the Corps shall be credited as active service in the status of an enlisted member."

(2) By adding the following new item at the end of the analysis thereof:

"1038. Service credit: certain service in Women's Army Auxiliary Corps."

SEC. 2. A person entitled to pension or compensation under any law administered by the Veterans' Administration, based upon the active service described in section 1 of this Act, may elect within one year after the enactment of this Act to receive that pension or compensation in lieu of any compensation under the Federal Employees' Compensation Act, as amended (5 U.S.C. 751 et seq.), to which that person is entitled on the basis of the same service. Such an election is irrevocable and does not entitle that person to the pension or compensation for any period before the date the election is made.

SEC. 3. No person is entitled to back pay or allowances because of any service credited under section 1 of this Act.

